

ENTERED

January 15, 2025

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

JORGE ALBERTO RODRIGUEZ,

Petitioner,

VS.

BOBBY LUMPKIN,

Respondent.

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CIVIL ACTION NO. 1:24-CV-074

ORDER

In May 2024, Plaintiff Jorge Alberto Rodriguez, representing himself, filed a Petition for a Writ of Habeas Corpus by a Person in State Custody (Doc. 1) challenging his 2018 convictions in a Texas state court for one count of Continuous Sexual Abuse of a Child, two counts of Sexual Assault of a Child, one count of Indecency with Child by Contact, six counts of Sexual Performance of a Child, and five counts of Possession of Child Pornography. (See State Court Records, Doc. 13–1) Rodriguez challenges his convictions on the grounds that he received ineffective assistance from his trial lawyer. (See Pet., Doc. 1, 4)

A United States Magistrate Judge recommends that the Court deny Rodriguez's Petition as untimely filed. (R&R, Doc. 16, 1) Rodriguez timely filed Objections (Doc. 19) to the Report and Recommendation. As a result, the Court reviews the portions of the Report and Recommendation to which Rodriguez objects *de novo* and all other portions for clear error. See 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b)(3).

In his Objections, Rodriguez does not directly dispute the application of the Antiterrorism and Effective Death Penalty Act of 1996's (AEDPA) statute of limitations under 28 U.S.C. § 2244(d)(1), and instead discusses one of the grounds for his ineffective assistance of counsel claim, effectively arguing that he was convicted based on an unconstitutional *ex post facto* law. Based on the record and the applicable law, the Court concludes that the Report and

Recommendation correctly rejects Rodriguez’s argument regarding ex post facto laws. In addition, the Court concludes that the Report and Recommendation correctly applies AEDPA’s statute of limitations to the record in this case. (*See* R&R, Doc. 16, 10–12) As a result, Rodriguez is not entitled to relief on any of his claims.

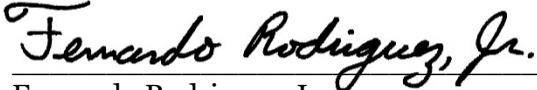
The Court **OVERRULES** Rodriguez’s objections and **ADOPTS** the Report and Recommendation (Doc. 16). It is:

ORDERED that Plaintiff Jorge Alberto Rodriguez’s Petition for a Writ of Habeas Corpus by a Person in State Custody (Doc. 1) is **DENIED**.

In addition, the Court finds that no outstanding issue would be debatable among jurists of reason, and that Rodriguez fails to make a “substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). Accordingly, the Court **DENIES** a Certificate of Appealability.

The Clerk of Court is directed to close this matter.

Signed on January 15, 2025.


Fernando Rodriguez, Jr.
United States District Judge